

MAILED

AUG 24 1994

Paper No. 22

PAT.&T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOSE CALATAYUD, JOSE R. CONDE,
AND MANUEL LUNA

Appeal No. 93-3515
Application 07/578,942¹

ORDER REMANDING TO EXAMINER

A review of the file reveals that an Information Disclosure Statement was not considered by the Primary Examiner. An Information Disclosure Statement was filed August 11, 1994 (Paper No. 21). It is not apparent from the record that the examiner considered the statements submitted or notified applicant of why their submission did not meet the criteria set forth in 37 C.F.R. § 1.97 and 1.98.

In addition a Response after Appeal (Paper No. 19) was filed on June 25, 1993. This Response after Appeal is being treated as a Reply Brief by the Board of Patent Appeals and Interferences.

¹ Application for patent filed September 7, 1990.

Appeal No. 93-3515
Application 07/578,942

The record does not contain a response from the Examiner stating whether the Reply Brief has been entered, and if entered, what effect the Reply Brief has on the pending rejections. See Manual of Patent Examining Procedure, § 1208.04.

Accordingly, it is

ORDERED that the application is remanded to the Examiner for such consideration of the Information Disclosure Statements and Reply Brief as may be appropriate and for such further action as may be appropriate.

The application, by virtue of its "special" status, requires immediate action. See Manual of Patent Examining Procedure, § 708.01(d). It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

MERRELL C. CASHION, JR.
Program and Resource Administrator

cc: Jacobson, Price, Holman
& Stern
400 Seventh Street, N.W.
Washington, DC 20004